

NOT FOR PUBLICATION

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY
CAMDEN VICINAGE

JERMAINE MITCHELL,

Petitioner

v.

UNITED STATES OF AMERICA,

Respondent

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Civ. No. 23-13003 (RMB)

OPINION

RENÉE MARIE BUMB, CHIEF UNITED STATES DISTRICT JUDGE

Pro Se Petitioner Jermaine Mitchell (“Petitioner”), a prisoner confined in the Federal Correctional Institution in Fort Dix, New Jersey (“FCI Fort Dix”), filed a petition for writ of habeas corpus under 28 U.S.C. § 2241 (Pet., Dkt. No. 1), collaterally attacking his conviction and sentence imposed by the United States District Court, District of Maine. *See United States v. Benton, et al.*, Criminal Action No. 1:15-cr-00040-JAW-3 (D. Me).¹

For the reasons discussed below, the Court will dismiss the petition for lack of jurisdiction.

I. THE PETITION

According to the docket in Petitioner’s criminal proceeding, Petitioner was found guilty by a jury of violating 18 U.S.C. § 846, §§ 841(a), 841(b)(1)(A), for

¹ Available at Public Access to Court Electronic Records, www.pacer.gov. The Court will cite the docket as “Crim. Action No. 15-40.”

conspiracy to distribute and possess with intent to distribute 280 grams or more of cocaine base. (Crim. Action No. 15-40, Dkt. No. 520.) On February 15, 2017, the Honorable John A. Woodcock Jr. entered judgment and imposed a 260-month sentence. (*Id.*, Dkt. No. 691.) Petitioner appealed (Dkt. No. 693), and on September 11, 2018, the First Circuit Court of Appeals affirmed the conviction and sentence. (*Id.*, Dkt. Nos. 744-45.) On April 29, 2019, Petitioner filed a motion to vacate, set aside or correct sentence under 28 U.S.C. § 2255. (*Id.*, Dkt. No. 764.) On May 19, 2020, Petitioner's § 2255 motion was denied. (*Id.*, Dkt. No. 819.) Petitioner appealed, and on April 22, 2021, the First Circuit Court of Appeals determined that Petitioner was not entitled to a certificate of appealability and dismissed his appeal. (*Id.*, Dkt. No. 858.) On December 14, 2023, Petitioner filed a Rule 60(b)(4) motion to void judgment of the order denying his § 2255 motion. (*Id.*, Dkt. No. 917.) The Rule 60(b)(4) motion remains pending in Petitioner's sentencing court, where he raises a similar claim to that alleged in his § 2241 petition, that the trial court lacked subject matter jurisdiction under 18 U.S.C. § 3231 because "the charging instrument did not allege acts constituting an offense or violation against the laws of the United States." (*Id.*)

II. DISCUSSION

This matter is before the Court for screening pursuant to Rule 4 of the Rules Governing Section 2254 Cases in the United States District Courts.² Rule 4 provides

² The Rules Governing Section 2254 Cases in the United States District Courts are

that “[i]f it plainly appears from the petition and any attached exhibits that the petitioner is not entitled to relief in the district court, the judge must dismiss the petition.

“Congress created § 2255 as a separate remedial vehicle specifically designed for federal prisoners’ collateral attacks on their sentences.” *Jones v. Hendrix*, 599 U.S. 465, 473 (2023) (citation omitted). The sole legislative purpose was to reroute federal prisoners’ collateral attacks to their sentencing courts, based on serious administrative problems with determining § 2241 habeas petitions in federal prisoners’ districts of confinement. *Id.* at 473-74. Congress, however, preserved the habeas remedy under § 2241 with the saving clause of § 2255(e), for situations where “the remedy by motion is inadequate or ineffective to test the legality of [a prisoner’s] detention.” *Id.* at 474 (quoting § 2255(e)). In *Jones*, the Supreme Court recently held that the second or successive provisions in § 2255(h) provide the only bases for federal prisoners to bring second or successive collateral attacks on their convictions and sentences. *Id.* at 480. If a collateral attack does not fit within those provisions, the federal prisoner may not bring the claim at all. (*Id.*) Therefore, this Court lacks jurisdiction under § 2241 over Petitioner’s collateral attack on his conviction and sentence, which this Court construes as a second or successive § 2255 motion. Because a similar claim is pending before Petitioner’s sentencing court in a Rule

applicable to cases under 28 U.S.C. § 2241 pursuant to Rule 1(b), the scope of the Rules.

60(b)(4) motion, this Court will not transfer the petition, to cure want of jurisdiction under 28 U.S.C. § 1631, to the First Circuit Court of Appeals for a determination of whether the petition may proceed as a second or successive § 2255 motion.

Pursuant to 28 U.S.C. § 2253(c)(1)(B), a petitioner must be granted a certificate of appealability before “an appeal may [] be taken to the court of appeals from-- ... the final order in a proceeding under section 2255.” A certificate of appealability may issue upon the petitioner’s “substantial showing of the denial of a constitutional right. 28 U.S.C. § 2253(c)(2). Where, as here, “the district court denies a habeas petition on procedural grounds without reaching the prisoner’s underlying constitutional claim, a [certificate of appealability] should issue when the prisoner shows, at least, that jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right and that jurists of reason would find it debatable whether the district court was correct in its procedural ruling.” *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). Jurists of reason would not disagree with this Court’s decision that it lacks jurisdiction under § 2241 over Petitioner’s collateral attack on his conviction and sentence in the United States District Court, District of Maine. The Court will deny Petitioner a certificate of appealability.

III. CONCLUSION

For the reasons discussed above, the Court will dismiss the § 2241 petition for lack of jurisdiction.

An appropriate order follows.

Dated: January 23, 2024

s/Renée Marie Bumb
RENÉE MARIE BUMB
Chief United States District Judge